

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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IN RE: AUTOMOTIVE PARTS  
ANTITRUST LITIGATION

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: Master File No. 12-md-02311  
: Honorable Marianne O. Battani  
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In Re: All Auto Parts Cases

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THIS DOCUMENT RELATES TO:

All Wire Harness Cases

All Auto Parts Cases

: 2:12-cv-00100-MOB-MKM

: 2:12-md-02311-MOB-MKM

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**MOTION AND MEMORANDUM IN SUPPORT OF MOTION FOR EXPEDITED  
HEARING ON DEFENDANTS' OBJECTIONS TO, AND MOTIONS TO MODIFY,  
MASTER ESSHAKI'S JUNE 18, 2015 ORDER**

The Wire Harness Defendants<sup>1</sup> respectfully move for an order scheduling a hearing on the Wire Harness Defendants' Objections to, and Motion to Modify, Master Esshaki's June 18, 2015 Order, No. 2:12-md-02311-MOB-MKM (ECF No. 1008) ("Motion to Modify"), and Certain Defendants' Objections to, and Motion to Modify, Master Esshaki's June 18, 2015 Order, No. 2:12-md-02311-MOB-MKM (ECF No. 1009). In advance of the entry of the June 18, 2015 order ("June 18 Order"), in recognition of the need for expedited review of any objections, the parties agreed to an expedited briefing schedule that requires responses to

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<sup>1</sup> "Wire Harness Defendants" refers to Chiyoda Manufacturing Corporation; Chiyoda USA Corporation; American Furukawa, Inc.; Furukawa Electric Co., Ltd.; DENSO Corporation; DENSO International America, Inc.; Fujikura Automotive America LLC; Fujikura Ltd.; G.S. Electech, Inc.; G.S.W. Manufacturing, Inc.; G.S. Wiring Systems, Inc.; Leoni Wiring Systems, Inc.; Leonische Holding Inc.; Mitsubishi Electric Corporation; Mitsubishi Electric US Holdings, Inc.; Mitsubishi Electric Automotive America, Inc.; Sumitomo Electric Industries, Ltd.; Sumitomo Wiring Systems, Ltd.; Sumitomo Electric Wiring Systems, Inc.; Sumitomo Wiring Systems (U.S.A.) Inc.; Tokai Rika Co., Ltd.; and TRAM, Inc.

objections to be filed 10 days after the objections, and replies five days later.<sup>2</sup> See June 18 Order at 3. Based on that schedule, briefing will be complete on July 6, 2015, and defendants respectfully request a hearing as soon as possible thereafter.

The Court should resolve defendants' motions quickly for two reasons: *First*, the Supplemental Discovery Plan prohibits any party from taking a deposition in the wire harness cases until the Court has entered a deposition protocol (First Supplemental Discovery Plan ¶ H.2, No. 2:12-cv-00100-MOB-MKM (ECF No. 224)), and after *sixteen months* of negotiations, briefing, argument, and multiple hearings, key provisions that govern plaintiff depositions remain unresolved. The parties now have a little more than one year to complete depositions of all defendants, direct purchasers, auto dealers, end payors, public entities, truck dealers, and third parties in all six wire harness cases. See Stipulated Order Regarding Briefing of Class Certification Motions and Close of Discovery, No. 2:12-cv-00101-MOB-MKM (ECF No. 226) (setting a July 1, 2016 deadline for all depositions). It is in all parties' and the Court's interests that discovery proceed efficiently so that class certification briefing remains on track. Defendants believe that they can meet the July 1, 2016 deadline, but they will need to begin noticing and taking depositions immediately in order to do so.

*Second*, Master Esshaki resolved the disputes that are the subject of defendants' motions on January 21, 2015, five months ago (after full briefing and oral argument during a telephonic hearing). The issues only re-surfaced after Master Esshaki misinterpreted the Court's statements

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<sup>2</sup> After defendants filed their objections, they contacted plaintiffs to determine plaintiffs' availability for a hearing on July 14, to coincide with a preliminary approval hearing that is scheduled on that date. In response, plaintiffs informed defendants that they do not intend to comply with the schedule to which they agreed (10 days for responses), but rather intend to request an extension of more than twice that amount of time (and more than both the June 18 Order and the Order Appointing a Master allow) for their response briefs. Thus, despite agreeing initially to shorten the schedule, plaintiffs now want to expand it, further delaying the Court's resolution of issues that the parties have been now discussing *for more than sixteen months*.

during the January 28 status conference, which caused him to believe (mistakenly) that he was required to reverse his prior rulings. *See* Motion to Modify at 5-6. As the wire harness defendants explain in their Motion to Modify, the record clearly shows that the Court did not intend to (and did not) overrule Master Esshaki's January 21 rulings during that status conference.<sup>3</sup> *See id.* at 9-11. Thus, Master Esshaki's June 18 Order is based on a simple mistake by Master Esshaki that is easy for the Court to fix. Defendants' motions are not complicated and should not require drawn out briefing or extensive argument.

The wire harness cases have now been pending for nearly four years and discovery has been ongoing since 2012, yet not a single deposition has occurred. Defendants request a hearing on the pending motions as soon as possible so that the Court can resolve the remaining disputes regarding end payor and auto dealer depositions, and those depositions can proceed immediately.

Pursuant to E.D. Mich. Local Rule 7.1(a), counsel for the wire harness defendants attempted to reach agreement with the auto dealer plaintiffs and end payor plaintiffs in advance of this filing, but were unable to do so.

Respectfully submitted,

Date: June 23, 2015

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<sup>3</sup> Defendants believe that the Court confirmed as much on May 6 when it stated: "I may have overstepped my bounds last time when I made a comment as to what I was thinking because what I'm thinking on these issues right now is not really important, it is the decision between the – the argument between the parties and the decision of the master that counts, and then if there is an objection I will deal with it." May 6 Conf. Tr. at 28:2-8.

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 23, 2015, I caused the foregoing MOTION AND MEMORANDUM IN SUPPORT OF MOTION FOR EXPEDITED HEARING ON DEFENDANTS' OBJECTIONS TO, AND MOTIONS TO MODIFY, MASTER ESSHAKI'S JUNE 18, 2015 ORDER to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

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